

HOUSE BILL No. 1588

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-2.5; IC 6-9-20.

Synopsis: Local government finance. Provides that the part of the Vanderburgh County innkeeper's tax rate that is dedicated to pay the operating expenses of a convention center is reduced from 2% to 1% after December 31, 2011 (rather than after December 31, 2009, under current law). Provides for a corresponding delay in the increase in the part of the Vanderburgh County innkeeper's tax rate that is deposited in the tourism capital improvement fund. Specifies that if the Vanderburgh County council adopts a resolution providing that the Vanderburgh County food and beverage tax should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, any excess food and beverage tax revenue that is not needed to pay any bonds, leases, or other obligations for a convention center shall be transferred to the fiscal officer of the largest municipality in the county. Requires the municipal fiscal officer to deposit the excess food and beverage tax revenue in a municipal arena fund. Provides that money in the municipal arena fund shall be used by the largest municipality in the county for financing the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities. Specifies that if the Vanderburgh County council adopts a resolution providing that the Vanderburgh County food and beverage tax should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the food and beverage tax: (1) does not terminate after the last of the bonds issued to finance improvements to a county auditorium or auditorium renovations, and the last of any bonds issued to refund

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Effective: July 1, 2009.

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January 16, 2009, read first time and referred to Committee on Local Government.



those bonds, have been completely paid; and (2) continues until the last of the bonds issued to finance the acquisition, construction, and equipping of the arena and other facilities that serve or support the arena activities, and the last of any bonds issued to refund those bonds, have been completely paid. Repeals provisions specifying that the amounts received from the food and beverage tax shall be used to pay bonds issued to finance the construction of an airport terminal.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1588

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-9-2.5-7.5, AS AMENDED BY P.L.224-2007,
2 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 7.5. (a) The county treasurer shall establish a
4 tourism capital improvement fund.
5 (b) The county treasurer shall deposit money in the tourism capital
6 improvement fund as follows:
7 (1) Before January 1, ~~2010~~, **2012**, the county treasurer shall
8 deposit in the tourism capital improvement fund the amount of
9 money received under section 6 of this chapter that is generated
10 by a three and one-half percent (3.5%) rate.
11 (2) After December 31, ~~2009~~, **2011**, the county treasurer shall
12 deposit in the tourism capital improvement fund the amount of
13 money received under section 6 of this chapter that is generated
14 by a four and one-half percent (4.5%) rate.
15 (c) The commission may transfer money in the tourism capital



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improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 2. IC 6-9-2.5-7.7, AS AMENDED BY P.L.168-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) Before January 1, ~~2010~~, **2012**, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

(c) After December 31, ~~2009~~, **2011**, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.

SECTION 3. IC 6-9-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

(d) ~~The tax terminates in a county on January 1 of the year immediately following the year in which the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest.~~

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~~(c)~~ Notwithstanding subsection ~~(d)~~, **(d) Except as provided in subsection (e)**, if the county fiscal body determines that the tax under this chapter should be continued in order to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, the tax ~~does not terminate as specified in subsection (d) but instead~~ continues until January 1 of the year following the year in which the last of the bonds issued to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, and the last of any bonds issued to refund those bonds, have been completely paid or defeased as to both principal and interest. An action to contest the validity of the determination under this subsection must be instituted not more than thirty (30) days after the determination.

(e) Notwithstanding subsection (d), if the county fiscal body determines that the tax under this chapter should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the tax does not terminate as specified in subsection (d) but continues until January 1 of the year following the year in which the last of the bonds issued to finance the acquisition, construction, and equipping of the arena and other facilities that serve or support the arena activities, and the last of any bonds issued to refund those bonds, have been completely paid or defeased as to both principal and interest. An action to contest the validity of the determination under this subsection must be instituted not more than thirty (30) days after the determination.

SECTION 4. IC 6-9-20-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. If:

~~(1) the treasurer of the airport authority has certified to the treasurer of state that the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest; and~~

~~(2) the county fiscal body has determined to continue the tax to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities~~ **or to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities,**

the amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the county treasurer **under**

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1 **section 8.5 of this chapter or the fiscal officer of the largest**
 2 **municipality in the county under section 9.5 of this chapter** upon
 3 warrants issued by the auditor of state.

4 SECTION 5. IC 6-9-20-8.5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) If the tax
 6 imposed under section 3 of this chapter is continued to finance
 7 improvements to the county auditorium or auditorium renovation
 8 resulting in a new convention center and related parking facilities, the
 9 county treasurer shall establish an auditorium fund.

10 (b) **Except as provided in sections 8.8 and 9.5 of this chapter**, the
 11 county treasurer shall deposit in this fund all amounts received under
 12 this chapter.

13 (c) Any money earned from the investment of money in the fund
 14 becomes a part of the fund.

15 (d) Money in the fund shall be used by the county for the financing,
 16 construction, renovation, improvement, and equipping of a county
 17 auditorium or auditorium renovation resulting in a new convention
 18 center and related parking facilities.

19 SECTION 6. IC 6-9-20-8.8 IS ADDED TO THE INDIANA CODE
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2009]: Sec. 8.8. (a) **If the tax imposed under section 3 of this**
 22 **chapter is continued to finance the acquisition, construction, and**
 23 **equipping of an arena and other facilities that serve or support the**
 24 **arena activities, the county treasurer shall determine whether**
 25 **there is any food and beverage tax revenue under this chapter that**
 26 **is not required to be deposited and held to:**

27 (1) **pay any debt service on bonds issued or rentals on leases**
 28 **entered into by January 1, 2009, for which a pledge of**
 29 **revenues of the food and beverage tax has been made by the**
 30 **county as set forth in section 8.7 of this chapter; or**

31 (2) **provide for a debt service reserve related to the bonds or**
 32 **leases described in subdivision (1).**

33 (b) **Before the twentieth day of each month, the county treasurer**
 34 **shall determine whether there is excess food and beverage tax**
 35 **revenue under subsection (a) and by the last day of that month**
 36 **transfer the excess food and beverage tax revenue to the fiscal**
 37 **officer of the largest municipality in the county. The municipal**
 38 **fiscal officer shall deposit the excess food and beverage tax revenue**
 39 **in a municipal arena fund. Any money earned from the investment**
 40 **of money in the municipal arena fund becomes a part of the**
 41 **municipal arena fund. Money in the municipal arena fund shall be**
 42 **used by the largest municipality in the county for financing the**

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1 acquisition, construction, and equipping of an arena and other
 2 facilities that serve or support the arena activities. This money
 3 shall be retained in the municipal arena fund until applied or
 4 transferred to another fund pledged to the payment of debt service
 5 on bonds, rent on leases, or other obligations incurred to finance
 6 the facilities.

7 SECTION 7. IC 6-9-20-8.9 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2009]: **Sec. 8.9. (a) If the tax imposed under section 3 of this**
 10 **chapter is continued to finance the acquisition, construction, and**
 11 **equipping of an arena and other facilities that serve or support the**
 12 **arena activities, the largest municipality in the county may issue**
 13 **bonds, enter into leases, or incur other obligations to:**

- 14 (1) pay any costs associated with the financing, acquisition,
 15 construction, and equipping of the arena and other facilities
 16 that serve or support the arena activities; or
 17 (2) refund bonds issued or other obligations incurred under
 18 this chapter so long as any bonds issued or other obligations
 19 incurred to refund bonds or retire other obligations do not
 20 extend the date when the previous bonds or other obligations
 21 will be completely paid as to principal and interest.

22 (b) Bonds issued or other obligations incurred under this
 23 section:

- 24 (1) are payable from money provided in this chapter, any
 25 other revenues available to the municipality, or any
 26 combination of these sources;
 27 (2) must be issued in the manner prescribed by IC 36-4-6-19
 28 through IC 36-4-6-20;
 29 (3) may not have a term ending not later than thirty (30) years
 30 after the first February 1 following the date on which
 31 construction of the arena and other facilities that serve or
 32 support the arena activities is estimated to be completed;
 33 (4) may be payable at any regular designated intervals which
 34 may be in unequal amounts if the municipality reasonably
 35 expects to pay the debt service from funds other than
 36 property taxes that are exempt from the levy limitations of
 37 IC 6-1.1-18.5 even though the municipality has pledged to levy
 38 property taxes to pay the debt service if those other funds are
 39 insufficient;
 40 (5) may, in the discretion of the municipality, be sold at a
 41 negotiated sale at a price to be determined by the municipality
 42 or in accordance with IC 5-1-11 and IC 5-3-1.

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(c) Leases entered into under this section:

(1) may be for a term ending not later than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;

(2) may be payable at any regular designated intervals which may be in unequal amounts if the municipality reasonably expects to pay the lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 even though the municipality has pledged to levy property taxes to pay the lease rentals if those other funds are insufficient;

(3) may provide for payments from revenues under this chapter, any other revenues available to the municipality, or any combination of these sources;

(4) may provide that payments by the municipality to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

(5) must be based upon the value of the facilities leased; and

(6) may not create a debt of the municipality for purposes of the Constitution of the State of Indiana.

(d) A lease may be entered into by the municipal executive after a public hearing of the municipal fiscal body at which all interested parties are provided the opportunity to be heard. After the public hearing, the municipal executive may approve the execution of the lease on behalf of the municipality only if:

(1) the municipal executive finds that the service to be provided throughout the life of the lease will serve the public purpose of the municipality and is in the best interests of its residents; and

(2) the lease is approved by an ordinance of the municipal fiscal body.

(e) An action to contest the validity of bonds issued or leases entered into under this section must be brought not later than thirty (30) days after the adoption of a bond ordinance or the municipal executive's action approving the execution of the lease.

(f) Notwithstanding the provisions of this chapter or any other law, in lieu of issuing bonds or entering into leases or incurring obligations in whole or in part under this chapter, to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena, the largest municipality

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in the county may cause bonds to be issued, leases to be entered into, or obligations to be incurred for those purposes:

(1) that are issued, entered, or incurred by any special taxing district, agency, department, or instrumentality of or in the municipality, under any other law by which bonds may be issued, leases may be entered, or obligations incurred;

(2) that are payable from money provided under this chapter, from any other revenues available to the municipality or any special taxing district, agency, department, or instrumentality of or in the municipality, or any combination of these sources;

(3) that have a term ending not later than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed; and

(4) that may be payable at any regular designated intervals which may be in unequal amounts provided that the municipality, special taxing district, agency, department, or instrumentality of or in the municipality reasonably expects to pay the debt service or lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 even though the municipality or any special taxing district, agency, department, or instrumentality of or in such municipality has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient.

SECTION 8. IC 6-9-20-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. With respect to

(1) bonds for which a pledge of airport authority revenues has been made by the airport authority, the Indiana general assembly covenants with the airport authority and the purchasers of those bonds that:

(A) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed by this chapter; and

(B) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed by this chapter may be used;

as long as the principal of or interest on any of those bonds is unpaid; and

(2) bonds, leases, or other obligations for which a pledge of revenues of the food and beverage tax imposed under this chapter has been made by the county as set forth in section 8.7 or 8.9 of

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1 this chapter, and bonds issued by a lessor that are payable from
 2 lease rentals, the general assembly covenants with the county, **the**
 3 **largest municipality in the county**, and the purchasers or owners
 4 of the bonds or other obligations described in this subdivision that
 5 this chapter will not be repealed or amended in any manner that
 6 will adversely affect the imposition or collection of the food and
 7 beverage tax imposed by this chapter as long as the principal of
 8 any bonds, the interest on any bonds, or the lease rentals due
 9 under any lease are unpaid.

10 SECTION 9. IC 6-9-20-9.5 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2009]: **Sec. 9.5. If:**

13 **(1) the county treasurer has certified to the treasurer of state**
 14 **that:**

15 **(A) the last of the bonds issued to finance the**
 16 **improvements to a county auditorium or auditorium**
 17 **renovation resulting in a new convention center and**
 18 **related parking facilities; and**

19 **(B) the last of any bonds issued to refund the bonds**
 20 **referred to in clause (A);**

21 **have been completely paid or defeased as to both principal**
 22 **and interest; and**

23 **(2) the county fiscal body has made a determination to**
 24 **continue the tax to finance the acquisition, construction, and**
 25 **equipping of an arena and other facilities that serve or**
 26 **support the arena activities;**

27 **the amounts received from the taxes imposed under this chapter**
 28 **shall be paid monthly by the treasurer of state to the fiscal officer**
 29 **of the largest municipality in the county upon warrants issued by**
 30 **the auditor of state. The fiscal officer shall deposit any amounts**
 31 **received under this section in the municipal arena fund.**

32 SECTION 10. IC 6-9-20-11 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. The financing of:

34 **(1) improvements to a county auditorium or auditorium**
 35 **renovation resulting in a new convention center and related**
 36 **parking facilities; and**

37 **(2) the acquisition, construction, and equipping of an arena**
 38 **and other facilities that serve or support the arena activities;**

39 **serves a public purpose and is of benefit to the general welfare of the**
 40 **county by enhancing cultural activities and improving the quality of life**
 41 **in the county and encouraging investment, economic growth, and**
 42 **diversity.**

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1 SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE
2 JULY 1, 2009]: IC 6-9-20-7; IC 6-9-20-8.

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